

# **THE PROPRIETARY SCHOOLS LAW**

**R.S. 17:3141**

**October, 2000**

## **RS 17:3141.1**

### **CHAPTER 24-A. PROPRIETARY SCHOOLS**

#### **§3141.1. Legislative intent**

This chapter is enacted in the exercise of the police powers of the state, to promote the public health, safety and welfare by safeguarding the people and legitimate proprietary schools of this state against incompetent, dishonest or unprincipled trade, technical and business schools of various kinds and operators, owners and/or solicitors thereof.

Added by Acts 1972, No. 311, §1.

#### **§3141.2. Definitions**

The following words and phrases, when used in this Chapter, shall have the meaning herein ascribed to them unless the context clearly indicates a different meaning:

- (1) "Board" means Board of Regents.
- (2) "Commission" means the "Advisory Commission on Proprietary Schools" created herein.
- (3) "Notice to the school" means written correspondence sent to the address contained in the application or affidavit.
- (4) "Owner" of a school means, if the school is owned by one or more individuals, each individual; if the school is owned by a partnership, the owners of the school are the partnership and each partner; if the school is owned by a corporation, the owners of the school are the corporation, the officers and directors of the corporation and any stockholder who owns five percent or more, of the total aggregate number of shares of all types of stock issued by the corporation that owns the school, or of any corporation owning stock, directly or indirectly, of the corporation that owns the school.
- (5) "Proprietary school", hereinafter referred to as "school", means any business enterprise operated for a profit or on a nonprofit basis which maintains a place of business within this state, or which sells or offers for sale any course of instruction in this state, either by correspondence using the mails or by any other means of communication, or by personal solicitation, and which offers or maintains a course or courses of instruction or study, or at which place of business such a course or courses of instruction or study is available through classroom or internet instruction, or both, to a person or persons for the purpose of training or preparing such person for a field of endeavor in a business, trade, technical, or industrial occupation, except as hereinafter excluded. The definition of a proprietary school shall not include:
  - (a) A school or educational institution supported entirely or partly by public funds from either a local or state source;
  - (b) A parochial, denominational or eleemosynary school or institution that provides religious training or theological education; however, any school or institution that also offers training in a secular field of endeavor shall be subject to the provisions of this Chapter;

(c) A school or training program which offers instruction primarily in the field of recreation, health, entertainment, or personal enrichment and which does not purport to prepare or qualify persons for employment as determined by the commission;

(d) A course or courses of instruction or study sponsored by an employer for the training and preparation of its own employees when the employer is not primarily engaged in the business of selling or offering courses of instruction or study;

(e) A course or courses of study or instruction sponsored by a recognized trade, business or professional organization for the instruction of the members of such organization;

(f) Private colleges and universities which only award a baccalaureate or higher degree and which maintain and operate educational programs for which credits are given;

(g) A private school which provides a basic academic education comparable to that provided in the public schools of the state;

(h) A school offering a program only for children under six years of age;

(i) A school which is regulated and licensed under the laws of this state;

(j) A private tutor, teacher or individual engaged in giving private tutoring or lessons to five persons or less in nonschool connected activities severed from the regular curriculum of a school as determined by the commission; or

(k) A day-camp.

(l) A training program that does not have attendance requirements in place for persons taking the courses and which offers for sale only nonsequential and noncontinuous courses of one week duration or less which do not exceed twenty hours of training.

(m) A manufacturer-certified training center that offers, at no additional charge to the person receiving training, manufacturer-authorized training that is included as part of the manufacturer's pricing package to prepare persons for certification conferred by the manufacturer and that uses course equipment and materials which are developed and sold by the manufacturer and course instructors and facilities which are certified by the manufacturer.

(n) A school or business enterprise which offers instruction to prepare students for tests which are required for entry into a postsecondary program of study.

(6) "School employee" means all instructors, administrators, solicitors, clerical and office personnel employed by the school.

(7) "Solicitor" means a person who solicits business for a proprietary school or who offers to sell or sells in this state any instruction or course of instruction offered by a proprietary school.

(8) "Teach out" means the time remaining in an affected student's course of study.

(9) "Treasurer" means the state treasurer.

(10) Repealed by Acts 1991, No. 943, §2, eff. July 24, 1991.

(11) Repealed by Acts 1998, 1st Ex. Sess., No. 151, §3, eff. July 1, 1999.

Added by Acts 1972, No. 311, §1. Amended by Acts 1980, No. 423, §1; Acts 1980, No. 457, §1; Acts 1989, No. 798, §1; Acts 1991, No. 943, §2, eff. July 24, 1991; Acts 1995, No. 1270, §1, eff. July 1, 1995; Acts 1997, No. 280, §1, eff. June 17, 1997; Acts

1998, 1st Ex. Sess., No. 151, §§1, 3, eff. July 1, 1999; Acts 2000, 1st Ex. Sess., No. 63, §1, eff. April 17, 2000; Acts 2001, No. 140, §1; Acts 2003, No. 267, §1.

**§3141.3. Advisory Commission on Proprietary Schools; creation of; membership; terms; rules and regulations**

A. There is hereby established under the jurisdiction of the Board of Regents an Advisory Commission on Proprietary Schools, composed of nine members to be appointed by the following:

- (1) One member by the commissioner of higher education.
- (2) Two members by the Board of Regents.
- (3) Three members by the Louisiana Proprietary Schools Association.
- (4) One member by the Louisiana Vocational Schools Directors Association.
- (5) One member by the State Association of Better Business Bureaus.
- (6) One member by the Louisiana Association of Chamber of Commerce

Executives.

B. (1) Each member shall serve for a term of four years and until their successors are appointed or qualified, except that of the initial members of the commission, two shall be appointed to serve for two year terms each, two for three years each, and three for four years each, the terms of each of the members being designated initially by the state superintendent of education.

(2) Any vacancy occurring in the membership of the commission shall be filled by the appointing authority who has designated the member in the same manner as the member whose term has expired or whose unexpired term is being filled.

(3) Members to be appointed after July 1, 1999 by the commissioner of higher education and the Board of Regents shall replace the members appointed by the superintendent of education and the State Board of Elementary and Secondary Education for the remainder of the term to be served by such member. Thereafter all successors shall be appointed as provided in this Section.

C. The members shall serve without compensation, but shall be reimbursed for actual expenses incurred in attending meetings of the commission.

D. (1) The commission shall elect annually from its membership a chairman and a vice chairman.

(2) The commission also shall adopt rules and regulations it deems necessary to administer its functions and which are not in conflict with Board of Regents policy. Such rules and regulations shall include but not be limited to:

(a) Establishing acceptable standards, consistent with prevailing accreditation standards, for the conduct of solicitors and for the operation of schools.

(b) Providing for investigation of complaints related to the established standards and for the disposition of such complaints.

(c) Providing remedies, including but not limited to restitution orders, fines, and other appropriate measures for violation of established standards.

E. The commission shall promulgate written regulations and requirements pursuant to the provisions of this Chapter, and shall additionally provide for a student complaint

procedure which shall be applicable to all licensed proprietary schools. The commission shall provide for a mechanism for informing all students of the availability of the student complaint procedure and shall furnish to anyone, within thirty days of receipt of a written request, a copy of the said regulations and requirements.

F. The Board of Regents shall provide for the monitoring of all proprietary schools to ensure that all advertising and representations made on behalf of the school to a prospective student are truthful and free from misrepresentation and fraud.

Added by Acts 1972, No. 311, §1. Amended by Acts 1977, No. 69, §1; Acts 1988, No. 881, §1; Acts 1989, No. 798, §1; Acts 1991, No. 844, §1; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999; Acts 2000, 1st Ex. Sess., No. 63, §1, eff. April 17, 2000; Acts 2003, No. 267, §1.

#### **§3141.4. Licenses**

A. (1) On and after October 1, 1972, no proprietary school covered by the provisions of this Chapter shall do business in this state unless the owner thereof holds a valid license approved and issued by the State Board of Elementary and Secondary Education or, beginning July 1, 1999, the Board of Regents. Applications for such licenses shall be made to the commission and shall be issued to each applicant who meets the qualifications set forth in this Chapter and such rules established by the Board of Regents and regulations as are established by the commission in conformity therewith.

(2) (a) On and after October 1, 1972, no course of instruction shall be established, offered or given, and no diploma, degree, or other written evidence of proficiency or achievement shall be offered or awarded until the owner of the school planning to offer or offering such course of instruction, diplomas, or degrees has obtained a license.

Unless the prior written approval of the Board of Regents shall have been obtained on or before June 1, 2000, no student enrollment in such course of instructions shall be solicited through advertising, agents, mail circulars, or other means. Any such approval shall be granted at the discretion of the board. Such approval, if given, shall require that copies of any written materials used for such solicitation be provided to the board and any monies received from prospective students by an applicant school prior to receipt of its proprietary school license, whether for application fees, tuition or otherwise, shall be placed in an escrow account in favor of the Board of Regents.

(b) Courses, classes, or programs in progress on October 1, 1971, may continue until completed.

B. (1) The initial license fee shall be two thousand dollars. The annual renewal fee for any school whose previous year's gross tuition income is less than fifty thousand dollars shall be five hundred dollars. The annual renewal fee for any school whose previous year's gross tuition income is equal to or greater than fifty thousand dollars shall be one thousand dollars, or the school's previous year's gross tuition income multiplied by twenty-five hundredths of one percent, whichever is greater.

(2) If the application for a license renewal is not received at the commission office at least thirty days prior to its expiration date, in addition to the renewal fee, there shall be a delinquent fee of five hundred dollars. The annual license fee for a sales

representative shall be one hundred dollars. The reinstatement licensure fee for a suspended school shall be five hundred dollars. No portion of any license fee shall be subject to refund.

(3) Any income earned by a proprietary school for courses of instruction which are not subject to licensure shall not be used in the calculation of license renewal fees for such school.

(4) For the purposes of this Chapter, an application for a change of ownership for a proprietary school already licensed by the Board of Regents shall be treated as an initial license application.

C. The application for an initial license or for a change of ownership shall require from the applicant the following minimum information:

(1) The name of the applicant and the name of the proprietary school offering the course of instruction.

(2) The addresses of the applicant and the school or schools, administrative offices, dormitories and cafeterias, and any other food service and housing establishments connected in any way to the school.

(3) The legal structure of the school (individually owned, partnership or corporation) and the names and addresses of all owners of the school, and if owned by a corporation, the date and state of incorporation, the charter number, and the names and addresses of the officers, directors and all stockholders owning more than five percent of the outstanding shares of the corporation.

(4) An audited balance sheet of the school prepared within six months prior to the date of the initial application for licensure or the effective date of a change of ownership by a certified public accountant.

(5) The names, addresses, educational and teaching qualifications and teaching fields of all instructors employed by the school.

(6) A list of equipment available for instruction in each course of study taught by the school.

(7) The maximum number of students to be enrolled in each course of instruction offered by the school and the ratio of equipment and instructors to students.

(8) The specific fields and courses of instruction which will be offered and the specific purpose of such instruction.

(9) A copy of all contracts or agreements which will be signed by students attending said school.

(10) A copy of all current catalogues, bulletins, published materials, form letters, circulars, and all advertising copy which is transmitted to the public or prospective students.

(11) (a) An affidavit by each owner, and solicitor containing all of the following information:

(i) The full name and address of the person and the capacity in which he serves the school.

(ii) The city, parish or county, and state of the person's permanent residence and places of residence for the past five years.

(iii) The name and address of the person's employer or employers for the past five years.

(iv) Whether or not the person has ever been convicted of a felony or a crime involving fraud or any misdemeanor other than a traffic violation.

(v) Three persons who may be contacted concerning the person's good moral character.

(b) Notwithstanding the provisions of this Paragraph, in the case of office and clerical personnel, the owner may submit an affidavit setting forth the above information concerning all clerical and office personnel, which information shall be based upon the owner's investigation and knowledge. Information submitted to the commission pursuant to the provisions of this Section shall not be open to public inspection.

(12) A copy of all written contracts or written outlines of all oral commitments or agreements made by the applicant with an apparent house owner for student housing, or with the owner of an establishment serving food to students, or with any other person planning to perform services for the students to be enrolled and to whom the students may be referred by the school.

(13) A detailed outline of each career program, including the number of courses required for completion of each career program and a description of each course.

(14) Any other information as may be required by the Board of Regents.

D. (1) (a) Any proprietary school accredited by a nationally recognized accrediting agency approved by the United States Office of Education under the provisions of Chapter 33, Title 38, U.S. Code, and subsequent federal legislation which requires the evaluation of such agencies and the issuance of an official list by that office shall not be required to file the information required by Paragraphs (4) through (14) of Subsection C of this Section. However, the commission may, after due notice to the school, require filing of the information contained in Paragraphs (4) through (14) of Subsection C of this Section. In lieu thereof, the owner may file an affidavit attesting to such accreditation or approval as provided herein with the license fee attached thereto.

(b) Additionally, the application shall require from the applicant the following information:

(i) A current balance sheet of the school prepared by a certified public accountant and indicating that all financial records of the school are maintained in accordance with accepted business practices. Information contained in the balance sheet shall be certified as being true and correct by an officer of the corporation.

(ii) The names, addresses, educational, and teaching qualifications and teaching fields of all instructors employed by the school.

(iii) A list of equipment available for instruction in the school.

(iv) The maximum number of students to be enrolled in each course of instruction offered by the school and the ratios of equipment and instructors to students.

(v) The specific fields and courses of instruction which will be offered and the specific purpose of such instruction.

(vi) A copy of all contracts and agreements which will be signed by students attending the school.

(vii) A copy of all current catalogs, bulletins, and published materials which are transmitted to the public or prospective students.

(viii) A copy of all written contracts or written outlines of all oral commitments or agreements made by the applicant with an apparent house owner for student housing, or with the owner of an establishment serving food to students, or with any other person planning to perform services for the students to be enrolled and to whom the students may be referred by the school.

(ix) An affidavit by each owner and solicitor, containing the following information:

(aa) His full name and address and the capacity in which he serves the school.

(bb) The city, parish or county, and state of his permanent residence and places of residence for the past five years.

(cc) The name and address of his employer or employers for the past five years.

(dd) Whether or not he has ever been convicted of a felony or a crime involving fraud or any misdemeanor other than a traffic violation.

(ee) Three persons who may be contacted concerning his good moral character.

(c) Notwithstanding the provisions of this Paragraph, in the case of office and clerical personnel, the owner or chief executive officer may submit an affidavit setting forth the above information concerning all clerical and office personnel, which information shall be based upon the owner's or chief executive officer's investigation and knowledge. Information submitted to the commission pursuant to the provisions of this Subparagraph shall not be open to public inspection.

(2) (a) In the event approval or accreditation is withdrawn from the school, the owner shall immediately notify the Board of Regents of the withdrawal of accreditation or approval and shall file with the commission within ninety days thereafter all of the information required by Subsection C of this Section.

(b) Failure by a school to provide the commission with any of the items of information enumerated in this Subsection in a timely manner as prescribed by law shall be subject to a fine not to exceed five hundred dollars. Each day that any such failure continues shall constitute a separate offense.

E. (1) No proprietary school shall have its license renewed if the school has failed to make any student tuition refunds in the manner provided by state and federal laws and regulations.

(2) Evidence of the school's refund compliance shall be submitted to the commission with payment for the annual renewal of the school's license. If the school is owned by an individual or a partnership, evidence of compliance shall be in the form of a notarized affidavit signed by all owners, or all partners, of the school affirming that all refunds have been made as of the date of application for license renewal. If the school is



owned by a corporation, evidence of compliance shall be a corporate resolution stating that all refunds have been made. Such resolution shall be made at a scheduled meeting of the corporation's board of directors and issued in proper form by the corporate secretary.

F. The Board of Regents may conduct on-site visits and require such information as may be necessary to grant a license and monitor institutional compliance with this Section.

Added by Acts 1972, No. 311, §1; Amended by Acts 1974, No. 397, §1; Acts 1977, No. 442, §1, eff. Jan. 1, 1978; Acts 1980, No. 475, §1, eff. July 1, 1980; Acts 1987, No. 366, §1, eff. July 1, 1987; Acts 1988, No. 748, §1; Acts 1988, No. 881, §1; Acts 1989, No. 798, §1; Acts 1991, No. 943, §1, eff. July 24, 1991; Acts 1992, No. 935, §1, eff. July 1, 1992; Acts 1993, No. 762, §1, eff. July 1, 1993; Acts 1995, No. 1270, §1, eff. July 1, 1995; Acts 1997, No. 280, §1, eff. June 17, 1997; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999; Acts 1999, No. 800, §2, eff. July 1, 1999; Acts 2000, 1st Ex. Sess., No. 63, §1, eff. April 17, 2000.

NOTE: See Acts 1999, No. 800, §§ 3 and 4.

**§3141.5. License; minimum standards; temporary licenses; duration of license; bond**

A. No applicant shall be issued a license in this state until the Board of Regents has first determined that the school maintains substantially the following minimum standards:

(1) The school has qualified instructors, and that each instructor has, at a minimum, a baccalaureate degree. In those subject areas which do not require traditional academic credentials, each instructor holds alternate credentials appropriate to the subject area in which he teaches including a certificate, diploma, license, or other degree from a recognized institution or organization as determined by the board.

(2) All advertising and representations made on behalf of the school to prospective students are truthful and free from misrepresentation and fraud.

(3) Any dormitory or eating facility offered by the school or with which the school has any contractual connection is clean, healthful, safe, and adequate for the number of students proposed to be served, and supervision of the same is adequately maintained at all times.

(4) The premises and conditions under which the students work or study are sanitary, healthful, and safe according to the standards set forth by the Department of Health and Hospitals.

(5) Prior to enrollment the student has been presented with a published statement of total tuition charges and/or part payments thereof, fees required, and all charges to be made for books, equipment, and supplies needed by the student and, if housing is provided for students, all charges therefor, or if housing is not furnished, a statement to that effect.

(6)(a) The school adheres to a tuition refund schedule as presented to the student in published form in the enrollment contract prior to enrollment in the event the student discontinues the training or is excluded therefrom.

(b) For any course consisting of any combination of home study lessons or local classroom lessons and resident training which must be completed before the student will achieve the stated objectives of the training, a pro rata refund policy shall apply as follows:

(i) In the case of classroom lessons, if the number of classroom lessons completed is equal to, or greater than, fifty percent of the total number of lessons in the classroom portion of the course of instruction, the student is not entitled to any refund of tuition associated with the classroom portion of the course of instruction. If the number of classroom lessons completed is less than fifty percent of the lessons in the classroom portion of the course of instruction, the percentage of classroom tuition to be refunded shall be determined by subtracting the amount of tuition for the classroom portion of the course that the school has earned from the total amount the student has paid the school for the classroom portion of the course. The percentage of the classroom tuition earned by the school shall be determined by dividing the total number of classroom lessons in the course of instruction, into the total number of classroom lessons completed as of the last recorded date of attendance, rounded upward to the nearest ten percent.

(ii) In the case of home study lessons, the pro rata refund shall be that portion of the period of enrollment for home study for which the student has been charged that remains and shall be determined by dividing the total number of lessons for which the student has been charged into the total number of lessons not submitted by the student.

(iii) An administration or registration fee not to exceed one hundred fifty dollars also shall be retained by the school.

(7) The school is equipped and able at all times to comply with its contractual relationships with the enrolled students.

(8) The facilities, class instruction rooms, housing quarters, and eating facilities are at all reasonable times open to inspection by the state superintendent of education, the commission, its members and staff, or designated agents and the representatives of the Department of Health and Hospitals.

(9) All equipment furnished is suitable and similar to that which is customarily used in the work that would be preferred by a student taking that course of instruction upon completion of the course.

(10) The school provides evidence that it meets local and state guidelines and standards, relative to zoning, occupational licensure, health, and safety.

B. A license shall be issued or denied within sixty days after receipt of the application by the board. A license shall be valid only for the school and courses for which it is issued and shall not include other schools or branches operated by the owner. No new course shall be offered by any school holding a license until it is approved by the Board of Regents upon the recommendation of the commission, in accordance with procedure which shall be established by the board.

C.(1) Each license shall be valid for not more than two years from the date of issuance, and thereafter for a period to be determined by the Board of Regents or until

revoked for cause by the board. The effective date of the first license renewal shall be established by the board.

(2) Each application for license renewal must be received by the board within the time period provided in R.S. 17:3141.4(B)(2) and shall contain such information as may be required by the board.

(3) Each license shall be assigned a number and shall be displayed on the premises of an institution.

(4) No license shall be transferable and in the event of a change of ownership of the school, the license shall be revoked, and the new owner shall within ten days after the change of ownership apply for a license to operate the school. If the school is owned by a corporation, a change of ownership is deemed to occur when fifty percent, or more, of all types, in the aggregate, of the corporation's stock has been transferred to a person, or persons, other than the person, or persons, who were stockholders at the time the school license was issued.

D.(1) (a) Each application for a license shall be accompanied by a surety bond in the amount of ten thousand dollars or such equivalent security as the board may accept. A bond shall be issued by a surety authorized to do business in this state and shall be filed with the commissioner of higher education. The term of the bond shall be continuous, but shall be subject to cancellation by the surety in the manner described in this Section. The bond shall provide blanket coverage for the acts of all persons engaged as agents of the school without naming them and without regard to the time they are engaged during the term of the bond.

(b) Such bond shall provide for the indemnification of any person suffering loss or damage as a result of any of the following:

(i) Any fraud or misrepresentation used in procuring his enrollment.

(ii) The failure on the part of the school to carry out and comply with each and every contract and agreement made and entered into by the school, acting by and through its officers, agents, or representatives with any student or enrollee.

(iii) The inability of the student to complete the course or courses because the school ceased operation or failed to furnish the facilities advertised or included in the contracted agreement.

(iv) The failure on the part of the school to adequately maintain all student records, which shall include the failure to transfer such records in accordance with the provisions of R.S. 17:3141.16(D)(3) and (4).

(2) The surety bond shall cover the period of the license except when the surety is released in the manner provided herein. A surety on the bond may be released therefrom after the surety has made a written notice thereof directed to the commission and to the Board of Regents at least thirty days prior to the release. The release shall not affect the liability of the surety for acts arising prior to the release of the surety.

E. The surety may terminate the bond upon giving a sixty-day written notice to the principal, the commission, and the Board of Regents; however, the liability of the surety for the acts of the principal and its agents shall continue during the sixty-day period. The notice shall not release the surety from liability which accrues before the cancellation

becomes final but which is discovered after that date and which arose at any time during the term of the bond. Unless the bond is replaced by that of another surety before the expiration of the sixty-day period, the license shall be suspended by the board. Any person required to file a bond may file in lieu thereof cash, a certificate of deposit or government bonds in the amount of ten thousand dollars. The deposit shall be subject to the same terms and conditions as required herein for surety bonds. Any interest or earnings on such deposits are payable to the depositor.

F.(1) The license shall be suspended by the Board of Regents for failure to pay fees or to submit updated information on changes in staff and school programs once each year, not less than thirty days prior to the expiration date of such license.

(2) In addition the license shall be suspended by the Board of Regents if the proprietary school is no longer covered by a surety bond as required by this Section; however, the commissioner of higher education shall cause said proprietary school to receive written notice of the suspension at least thirty days prior to the release of said surety to the effect that said license shall be suspended until a reinstatement licensure fee and another surety bond is filed. The surety bond shall be filed in the same manner and amount as required for the initial surety bond.

(3) Notwithstanding the provisions of this Subsection, no school exempted from filing information under the provisions of R.S. 17:3141.4(D) shall be affected by the provisions of this Subsection.

G. Notwithstanding the provisions of this Section, a proprietary school shall not be required to post the surety bond if the school does not require students to pay tuition for course study more than one month in advance, the school has been in continuous operation for at least five years, and the school has met all of the regulations of the commission and rules established by the Board of Regents.

Acts 1972, No. 311, §1; Acts 1974, No. 397, §1; Acts 1978, No. 340, §1; Acts 1980, No. 476, §1; Acts 1988, No. 881, §1; Acts 1989, No. 798, §1; Acts 1990, No. 1049, §1; Acts 1995, No. 1270, §1, eff. July 1, 1995; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999; Acts 2000, 1st Ex. Sess., No. 63, §1, eff. April 17, 2000.

### **§3141.6. Denial of license; hearing**

A.(1) If the commission or the commissioner of higher education recommends the denial of a license, the commissioner of higher education shall within five days thereafter so notify the applicant in writing.

(2) Any applicant who is aggrieved by a denial of a license may within fourteen days after receipt of notice of such denial file with the executive secretary of the commission a request for a hearing before the commission at its next regular meeting. If such a hearing is requested, then the matter shall not be presented to the Board of Regents until a hearing is held by the commission. At said hearing, the applicant may appear in person or by counsel and may present evidence in support of the granting of the license. Any interested person may appear and present oral and documentary evidence to the commission concerning the issuance of a license to the applicant. Strict rules of evidence shall not apply.

(3) The commission shall within seven days issue a statement giving reasons for its recommendation that a license be granted or denied.

(4) Pending the final determination of the issuance or denial of the license a school in operation as of July 31, 1972, may continue to operate.

B. If the Board of Regents receives a recommendation from the commission or the commissioner of higher education that a license be denied, then a hearing may be held at the time the Board of Regents considers the recommendation if the applicant notified the secretary of the Board of Regents, by registered mail prior to its meeting that he desires a public hearing. If the Board of Regents denies a license without a public hearing, then the applicant may at the next meeting of said board request such a hearing.

C. No new license shall be issued to any school if any owner of the school has been, or is, an owner of a proprietary school at the time the school failed to make any student tuition refund according to tuition refund guidelines and provisions of state and federal law and regulations.

Acts 1989, No. 798, §1; Acts 1995, No. 1270, §1, eff. July 1, 1995; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.

#### **§3141.7. Court appeal**

Any applicant for a license who is dissatisfied with the ruling of the Board of Regents after public hearing may file a written appeal to the district court for the parish in which the applicant resides within ninety days after notice of the final determination of the Board of Regents. Written notice of the appeal shall be served on the presiding officer of the Board of Regents, stating the reasons therefor. The decision of the district court shall be final.

Acts 1989, No. 798, §1; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.

#### **§3141.8. Revocation of license; causes; appeal; injunction; subpoena power**

A. The Board of Regents, after recommendation by the state commissioner of higher education or the commission, shall have the authority to suspend, revoke, or cancel any license issued by it or to place certain specified conditions upon the continued operation thereunder.

B. A school with a suspended license may continue to teach those students currently enrolled in a course, but shall not enroll any new students. The suspension shall remain in effect until the deficiency causing the suspension has been removed. The commission shall report to the Board of Regents the name of any school whose license has been suspended.

C. The Board of Regents shall notify the holder of the license of its decision to suspend, revoke, or cancel the license. At any time within thirty days prior to the revocation or conditioning of a license, the Board of Regents, upon request of the holder of the license, shall afford the holder an opportunity to be heard in person or by counsel. Strict rules of evidence shall not apply.

D. Within thirty days prior to the date set for a hearing on such revocation or restriction, the Board of Regents shall notify in writing the holder of such license of the

date and purpose of the hearing and assign therein the grounds for the action contemplated to be taken. Upon the favorable vote by at least two-thirds of the authorized membership of the board, the Board of Regents may revoke, cancel, suspend, or restrict licensure for any of the following reasons:

(1) The signing of an application or the holding of a permit by a person who has pleaded guilty to a felony or has been found guilty of a felony.

(2) Failure to comply with a commitment made in an application for a license.

(3) Failure to maintain the minimum standard set forth in R.S. 17:3141.5(A).

(4) Failure to maintain sufficient financial resources as evidenced by an audited balance sheet or letter of credit reflecting solvency.

(5) Acceptance or use by the owner of any school of the services of a solicitor who does not hold a permit required by this Chapter.

(6) The failure of the license holder to comply with the provisions of this Chapter or any written rule or regulation of the commission.

(7) The use by an employee, solicitor or representative of the school, with the knowledge of the owner, of fraud or misrepresentation in procuring the enrollment of a student, or if any such incident is called to the attention of the owner failure by the owner to take remedial steps, including restitution of fees collected and expenses incurred by the prospective student.

(8) Failure on the part of the school to comply with each and every contract and agreement made and entered into by it or by its representative with any student.

(9) The use by the school or any representative thereof of deceptive or fraudulent advertising in any form.

(10) The violation by the owner of a school of the provisions of R.S. 17:3141.14.

(11) The filing of false information with the commission, the commissioner of higher education, or the Board of Regents by an owner of a school or by any holder of a license or a permit.

(12) The failure of the owner of the school to notify the commission in writing of the withdrawal of accreditation or approval, as required in R.S. 17:3141.4(D).

(13) Failure to provide facilities or equipment for offering courses of instruction in a safe and sanitary condition.

E. After a hearing before the commission, a recommendation shall be made to the board for a final decision on the revocation of the license.

F. Any final decision or determination of the Board of Regents may be appealed to the district court in accordance with the procedure provided for in R.S. 17:3141.7.

Acts 1972, No. 311, §1; Acts 1989, No. 798, §1; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999; Acts 2000, 1st Ex. Sess., No. 63, §1, eff. April 17, 2000.

### **§3141.9. Solicitor; permit required; fee; bond**

A. (1) No person shall sell any course of instruction or solicit students therefor in this state unless he first applies for and obtains a permit as a solicitor. The fee for each permit and each renewal thereof shall be one hundred dollars. If the solicitor represents more than one school, he shall obtain a separate permit for each school he represents.

(2) Upon approval of the application for a permit, the Board of Regents shall issue a permit in the form of a pocket card to the solicitor, giving his name, address, permit number, and the name and address of his employing school, and certifying that the person whose name appears on the card is an authorized solicitor of the school.

(3) Each permit shall be valid for one year from the date on which it is issued.

B. (1) The application for a permit shall be made on forms which shall be furnished by the board and shall be accompanied by a surety bond acceptable to the board in the sum of one thousand dollars. Such bond shall be continuous. It shall be issued by a solvent surety authorized to do business in this state, shall be filed with the commissioner of higher education, and shall be conditioned to provide indemnification to any student suffering loss as a result of any fraud or misrepresentation used by the permittee in procuring his enrollment. The bond may be supplied by a solicitor for a school or by the school itself as a blanket bond covering each of its agents in the amount of one thousand dollars.

(2) The liability of the surety on such bond for each solicitor covered shall not exceed the sum of one thousand dollars as an aggregate for all students for all breaches of the conditions of the bond by such solicitors.

(3) The surety of any such bond may cancel the same upon giving thirty days' notice in writing to the commission and the board and upon giving such notice shall be relieved of liability for any breach of condition occurring after the effective date of the cancellation.

(4) Each application for renewal shall be accompanied by a surety bond as provided in this Section.

C. All fees collected for the issuance or renewal of permits required by this Section shall be retained by the board for use solely by the board in administering the provisions of this Chapter, and no part thereof shall revert to the state general fund at the end of any fiscal year.

Acts 1972, No. 311, §1; Acts 1989, No. 798, §1; Acts 1991, No. 943, §1, eff. July 24, 1991; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999; Acts 2000, 1st Ex. Sess., No. 63, §1, eff. April 17, 2000.

#### **§3141.10. Permits; denial of; procedure**

Permits applied for in accordance with the provisions of R.S. 17:3141.9 shall be granted or denied within sixty days after receipt of the application.  
Acts 1989, No. 798, §1.

#### **§3141.11. Revocation of permit; causes; procedure**

A. Any permit issued to a solicitor may be revoked by the Board of Regents if the holder of the permit solicits or enrolls students through fraud, deception, or misrepresentation, or upon a finding by the commission that the permit holder is not of good moral character.

B. The Board of Regents shall notify the holder of the permit in writing of its decision to revoke such permit. At any time within thirty days prior to such revocation,

upon request of the solicitor, the commission shall afford the solicitor an opportunity to be heard in person or by counsel. Strict rules of evidence shall not apply. On or before thirty days prior to the date set for the hearing, the commission shall notify the aggrieved solicitor of the date and purpose of the hearing and the grounds for the contemplated revocation of the permit. The action of the commission shall be determined by a vote of a majority of the members of the commission. Any final decision of the commission may be appealed to the Board of Regents.

Acts 1989, No. 798, §1; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.

#### **§3141.12. Recovery on contracts**

No recovery shall be had on any contract for or in connection with a course of instruction by any owner selling or administering such course if the solicitor for such owner was not the holder of a valid permit as required by the provisions of this chapter at the time the contract was negotiated or the course sold.

Added by Acts 1972, No. 311, §1.

#### **§3141.13. Advertising**

No person engaged in any form of advertising business shall prepare any advertising materials for or on behalf of any owner or solicitor required to obtain a license or permit under the provisions of this chapter until such advertiser shall have first obtained from the commission information that the person for whom the advertising materials are to be prepared is the holder of a valid license or a permit issued in accordance with the provisions of this chapter.

Added by Acts 1972, No. 311, §1.

#### **§3141.14. Prohibited acts; penalty; injunctive relief**

A. It shall be unlawful for any owner of a school or a representative of a proprietary school offering courses of instruction in this state to:

- (1) Operate such school without a valid license; or
- (2) Operate such school without a valid surety bond; or
- (3) Utilize advertising designed to mislead or deceive prospective students; or
- (4) Accept a contract from a solicitor who does not hold a valid permit issued in accordance with the provisions of this chapter; or
- (5) Violate any of the provisions of this chapter.

B. It shall be unlawful for any person selling or offering to sell courses of instruction in this state to:

- (1) Solicit a prospective student without holding a permit as required by the provisions of this chapter; or
- (2) Solicit a prospective student without having a bond as required by the provisions of this chapter; or
- (3) Use fraud or misrepresentation in procuring a student's enrollment; or
- (4) Violate any of the provisions of this chapter.



C. Any owner, school employee, or solicitor who is found guilty of any act prohibited by the provisions of this Chapter shall be guilty of a misdemeanor and shall be fined not to exceed five hundred dollars. Each day that any such act continues shall constitute a separate offense.

D. Whenever the commissioner of higher education or the commission has probable cause to believe that any owner of a proprietary school or any solicitor of the owner who sells or offers to sell any course of instruction has committed any of the acts prohibited by this Chapter, the commission or commissioner of higher education shall petition a court of competent jurisdiction for an injunction restraining the committing of such acts.

Acts 1972, No. 311, §1; Acts 1989, No. 798, §1; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.

### **§3141.15. Degree granting status**

A.(1) The Board of Regents shall approve or disapprove occupational degree proposals as submitted by eligible licensed postsecondary proprietary schools under its jurisdiction.

(2) The Board of Regents shall approve or disapprove associate degrees in the arts proposals and associate degrees in the sciences proposals as submitted by eligible licensed postsecondary proprietary schools under its jurisdiction.

B. (1) Postsecondary proprietary schools shall be eligible for degree granting status for occupational degrees if they are:

(a) Licensed by the Board of Regents.

(b) Domiciled in the state of Louisiana.

(c) Accredited by the Association of Independent Colleges and Schools, the National Association of Trade and Technical Schools, or the Southern Association for Colleges and Schools, or a regional or national accrediting agency recognized by the United States Department of Education.

(2) Postsecondary proprietary schools shall be eligible for degree granting status for either an associate of arts degree or an associate of science degree or both if they are:

(a) Licensed by the Board of Regents.

(b) Domiciled in the state of Louisiana.

(c) Accredited at the junior college level by the Southern Association of Colleges and Schools.

C. (1) The Board of Regents shall revoke the occupational degree granting status of any postsecondary proprietary school which loses its accreditation as required in Subparagraph B(1)(c) of this Section.

(2) The Board of Regents shall revoke the associate of arts and associate of science degree granting status of any postsecondary proprietary school which loses its accreditation by the Southern Association of Colleges and Schools.

D. (1) Eligible postsecondary proprietary schools shall award a nonacademic degree entitled "The Associate in Occupational Studies". All advertising, recruiting, and publications shall state clearly that such occupational degree awarded by a postsecondary

proprietary school is nonacademic and does not imply, promise, or guarantee transferability.

(2) Eligible postsecondary proprietary schools shall award either the associate of arts degree or the associate of science degree, or both. All advertising, recruiting, and publications shall state clearly that the academic credits awarded for these degrees, while transferable to other regionally accredited colleges and universities, shall be applied toward degrees at the receiving institution at the discretion of the receiving institution.

(3) Postsecondary proprietary schools shall be eligible to award associate of arts degrees and associate of science degrees if they are:

(a) Licensed by the Board of Regents.

(b) Domiciled in the state of Louisiana.

(c) Accredited at the junior college level by the Association of Independent Colleges and Schools, the Southern Association of Colleges and Schools, or a regional or national accrediting agency recognized by the United States Department of Education.

(d) Determined by the Board of Regents to be in full compliance with the following criteria, as measured against the collegiate-level requirements set forth in the junior college standards of the school's accrediting agency:

(i) Degree credit requirements. The school may award an associate degree only upon the successful completion by students of a minimum of sixty semester hours, ninety quarter hours, or their equivalent. Transfer and award of credit for appropriate work at other accredited institutions may be granted.

(ii) Professional and general education requirements. Of the total credits required for the associate degree, there shall be a minimum of thirty semester hours, forty-five quarter hours, or their equivalent, in courses within the areas of concentration; and a minimum of fifteen semester hours, twenty-three quarter hours, or their equivalent, in general education courses. General education courses include subjects other than the courses within the areas of concentration. General education courses, as distinguished from professional courses, shall place emphasis on principles and theory and not on practical applications.

(iii) Curriculum. The curriculum shall quantitatively and qualitatively approximate the standards at other collegiate institutions in Louisiana offering associate degrees, with due allowance for meeting special vocational objectives. Instructional procedures, texts, and materials shall be appropriate to the purposes, curricula, and standards of collegiate institutions in Louisiana.

(iv) Enrollment. Enrollment in the second year of a two-year program must be sufficient to support regularly scheduled classes and laboratory work. Second-year work shall be based upon appropriate first-year prerequisites.

(v) Faculty preparation. (aa) A junior college shall have an adequate and competent faculty working under conditions that encourage the best efforts of each student. The size of the faculty shall be appropriate to the total student enrollment.

(bb) During any academic term, a faculty member shall not be assigned to teach in more than three fields of instruction. Instructors shall be assigned in terms of their major and minor academic preparation and related professional experience.

(cc) At least one-half of those subjects which are part of the curriculum of an associate degree program, including those core courses common to nondegree programs, shall be taught by faculty members possessing graduate degrees, professional degrees such as J.D. or M.D., or baccalaureate degrees plus recognized professional certification such as C.P.A. or R.N. The only exception for the requirement of an advanced degree shall be in the case of instructors of subjects in areas which normally are not academically credentialed or which are not normally credentialed with graduate degrees.

(vi) Librarian. A professionally trained librarian shall devote at least twenty hours a week to the direction and supervision of the library and related instructional resources, and have a staff adequate to provide full-time assistance to students and faculty.

(vii) Library budget. An adequate, annual budgetary allocation shall be expended for the purchase of books, periodicals, equipment, and other materials.

(viii) Library functions. The functions of the library shall be appropriate to the educational programs of the college. The library shall provide the study and reading facilities necessary to make the educational programs effective. There shall be evidence that library facilities are appropriately used by students and faculty. The Dewey decimal, Library of Congress, or other appropriate system of classification shall be used. Records of circulation and inventory shall be current and accurate.

(ix) Library holdings. A library for a proprietary school granting associate of arts or associate of science degrees shall contain up-to-date titles appropriate for the size of the institution and the breadth of its educational programs, as well as magazines and essential professional periodicals. Consideration also shall be given to supplementary library resources contracted for by the institution on behalf of its student body. The availability of the library shall accommodate the educational objectives of both the day and the evening students of the college.

E. Each student admitted to an associate degree program in an accredited postsecondary proprietary school shall be required to:

(1) Have a high school diploma or equivalent.

(2) Complete a minimum of two years, four semesters, or six quarters of course work for each associate degree program.

(3) Complete a minimum of sixty semester hours or, if applicable, ninety quarter hours of course work for each associate of arts or associate of science degree program.

F. Each associate degree program shall meet the following minimum requirements:

(1) That seventy-five percent of the course of study in an associate in occupational studies program shall be in a specific occupational area.

(2) That associate of arts and associate of science programs require:

(a) At least sixty semester hours or, if applicable, ninety quarter hours of course work.

(b) At least thirty semester hours or, if applicable, forty-five quarter hours of course work in the area of concentration.

(c) At least fifteen semester hours or, if applicable, twenty-three quarter hours of course work in general education courses, with six of these semester hours, or if applicable, nine quarter hours being in college level English courses and six of these semester hours or, if applicable, nine quarter hours being in college level mathematics courses. General education courses shall be those courses which have subject matter outside the area of concentration and which place emphasis on principles and theory and not on practical applications.

(3) That transfer and award of credit for appropriate work at other institutions accredited by the Southern Association of Colleges and Schools may be granted.

G. Nothing herein shall impair the right of private colleges to award degrees.

Added by Acts 1976, No. 207, §1; Amended by Acts 1988, No. 575, §1; Acts 1992, No. 1004, §1, eff. July 13, 1992; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.

### **§3141.16. Proprietary school student protection fund and program**

A. There shall be established in the state treasury as a special permanent fund the Proprietary School Students Protection Fund, hereinafter referred to as the "Student Protection Fund". Following compliance with the requirements of Article VII, Section 9(B) of the Constitution of Louisiana relative to the Bond Security and Redemption Fund, all monies generated pursuant to the provisions of this Section shall be deposited into the Student Protection Fund, and monies in this fund shall be used solely to make refunds of unearned tuition as provided for by this Chapter. The monies in this fund shall be invested by the state treasurer in the same manner as for the state general fund and interest earned on the investment of these monies shall be credited to the Student Protection Fund. All unexpended and unencumbered monies in this fund at the end of a fiscal year shall remain in such fund and be available for expenditure in the next fiscal year. The legislature shall make yearly appropriations from the fund to the Board of Regents for the purposes of the proprietary school student protection program.

B. (1) All proprietary schools licensed under the provisions of this Chapter prior to September 3, 1989, shall make payments to the Student Protection Fund according to the following graduated schedule beginning July 1, 1991, and annually thereafter. For the calculation of the first payment, the assessment period shall be July 1, 1990 to June 30, 1991. Subsequent payments shall be calculated upon annual assessment period beginning July first of each year.

(2) Except for the initial payment, all proprietary schools licensed subsequent to September 3, 1989, shall make payments to the Student Protection Fund according to the following graduated schedule beginning one year after licensure by the board and annually thereafter. The first payment to the Student Protection Fund by such schools shall be one thousand dollars and shall accompany application for licensure. Should the gross tuition collected by such a school during the first assessment period after licensure require an adjustment, such adjustment shall be made in accordance with the applicable provisions of this Section.

## STUDENT PROTECTION FUND SCHEDULE

| Gross Tuition Collected During<br>Assessment Period | Annual Payment |
|---|----------------|
| \$ 1 - 24,999                                       | \$ 200.00      |
| \$ 25,000 - 49,999                                  | \$ 250.00      |
| \$ 50,000 - 99,999                                  | \$ 300.00      |
| \$ 100,000 - 199,999                                | \$ 400.00      |
| \$ 200,000 - 299,999                                | \$ 500.00      |
| \$ 300,000 - 399,999                                | \$ 600.00      |
| \$ 400,000 - 499,999                                | \$ 700.00      |
| \$ 500,000 - 749,999                                | \$1,000.00     |
| \$ 750,000 - 999,999                                | \$1,250.00     |
| \$ 1,000,000 - 1,499,999                            | \$1,500.00     |
| \$ 1,500,000 - and above                            | \$2,000.00     |

(3) All payments to the Student Protection Fund shall be made to the executive secretary of the Advisory Commission on Proprietary Schools. Except in cases of overpayment, all payments to the Student Protection Fund shall be nonrefundable.

(4) Nontuition revenues and all income generated from contract training services shall be exempt from the calculation of a school's gross tuition revenues.

(5) Repealed by Acts 1991, No. 943, §2, eff. July 24, 1991.

(6) Payments required pursuant to R.S. 17:3141.16 shall be a condition of doing business in the state and failure to make any such payment within thirty days following the date on which it is due shall result in the loss of licensure as granted under the provisions of R.S. 17:3141.4. The executive secretary of the Advisory Commission on Proprietary Schools shall provide written notice of the required payment to each school not less than thirty days prior to the due date of such payment.

(7) If an audit of tuition revenues conducted by the Board of Regents determines that a school has paid into the Proprietary School Student Protection Fund an amount less than was required, the school shall pay said amount required to the executive secretary of the Advisory Commission on Proprietary Schools within thirty days of receipt of written notice from the superintendent or his designee of the amount of the underpayment.

(8) If an audit of tuition revenues conducted by the Board of Regents determines that a school has paid into the Proprietary School Student Protection Fund an amount more than was required, subsequent payment or payments by the school shall be appropriately credited by the commissioner of higher education or his designee until such credited payment or payments equal the amount of the overpayment.

C.(1) Forms developed and provided annually by the commissioner of higher education to calculate payments due the Student Protection Fund shall be completed by the school and submitted annually to the executive secretary of the Advisory Commission on Proprietary Schools. The school director or persons designated to sign on his behalf shall attest that the information provided is correct and complete.

(2) A school shall maintain accurate and complete financial records showing all tuition amounts paid to such school by or on behalf of each student.

D. (1) No payment shall be paid from the fund until the avails from the surety bond required by R.S. 17:3141.5(D) have been exhausted.

(2) Claims against the fund shall be considered from currently enrolled students only when there is a lack of availability for that student to transfer for the time remaining in his course of study, at no additional cost, to a similar program within the student's local area, as determined by the Advisory Commission on Proprietary Schools. The receiving school shall in no way be liable for any transferring student's tuition refunds.

(3) A school shall keep records of:

(a) The name and permanent address of each student.

(b) The date each student began instruction at the school.

(c) The enrollment agreement of each student.

(d) Information about each program in which the student was or is enrolled, including the names of the program, length in hours where applicable, or for home study schools, program length in lessons, tuition paid in each calendar quarter, number of hours where applicable, of instruction or where appropriate, completed by the student at the end of each calendar quarter, and date of last instruction or of program completion.

(e) Other such information as required by the Board of Regents by rule.

(4) These records shall be kept current and on file at the school and be available for inspection by the commissioner of higher education or his designee upon request. In the event of cessation of operation, these records shall be transferred to the commissioner of higher education within ten days of cessation of operation. In the event of seizure or confiscation of records by those legally authorized, a copy of all records of students affected by the cessation of operation shall be sent to the commissioner of higher education.

(5) A school shall inform its students in writing of their rights under the provisions governing the Student Protection Fund. Application for refund shall be made on forms provided by the commissioner of higher education after determination of cessation of operation of the school.

(6) A student in applying for refund under the provisions of this Section shall specify any and all sources and amounts of tuition which were paid on the student's behalf. The commissioner of higher education shall direct the executive secretary of the Advisory Commission on Proprietary Schools to pay pro rata refunds to the student or appropriate individuals or organizations which paid tuition on behalf of the student.

(7) A student, as a condition of accepting the refund payment, must sign such forms as prescribed by the superintendent that subrogate to the state of Louisiana all rights of action, claims, and demands which the student may have against the school for tuition reimbursement to the extent of the refund the student receives from the state.

(8) If a school's cessation of operation renders eligible a student, governmental agency or other organization, or any person for a refund, reasonable effort must be made to acquire such a refund from such school, surety bond as required by R.S. 17:3141.5(D), or any other school resources, and any refund payments for tuition from any other source made to a student as a result of this cessation of operation shall be deducted from the obligation of the fund.

(9) A claim shall be made against the fund only if it arises out of the cessation of operation by an institution on or after September 3, 1989, and after claims are made against the surety bond or other school resources.

(10) In the event of the cessation of operation of any authorized school after July 1, 1999, the Board of Regents shall have the authority to authorize the seizure and sale at public auction of all unsecured assets of the school, with all proceeds to be deposited in the Proprietary School Student Protection Fund. Cessation of operation shall mean the cessation of all instructional and business operations directly related to the offering of education and training as authorized under the provisions of this Chapter, with no reasonable prospect of resuming operations.

E. (1) (a) Any student enrolled in a proprietary school licensed under the provisions of R.S. 17:3141.4 through 3141.17, who is unable to complete a course or unit of instruction at such school because of cessation of operation of the school and who has paid tuition for such course or unit of instruction, may make application to the commissioner of higher education for a refund of tuition from the Student Protection Fund established pursuant to R.S. 17:3141.16 to the extent that such fund exists or has reached the level necessary to pay outstanding approved claims.

(b) Upon such application, the commissioner of higher education shall determine whether the applicant is unable to complete a course or unit of instruction because of the cessation of operation of the school to which tuition has been paid. The commissioner of higher education may summon by subpoena any person, records, or documents pertinent to the making of a determination regarding cessation of operation.

(c) If the commissioner of higher education finds that the applicant is entitled to a refund of tuition because of the cessation of operation of the school, the commissioner of higher education shall determine the amount of an appropriate refund which shall be equal to or a portion of the tuition paid for the uncompleted course or unit of instruction. Thereafter, if the commissioner of higher education determines that the surety bond or other school financial resources are inadequate to repay the obligation, the commissioner of higher education shall direct the executive secretary of the Advisory Commission on Proprietary Schools to pay the refund to the applicant or persons, agencies, or organizations indicated by the applicant who has paid tuition on the student's behalf. If the student is a minor, payment shall be made to the student's parent, parents, or legal guardian.

(2) Each recipient of a tuition refund made in accordance with the provisions of this Section shall assign all rights to the state of any action against the school or its owner or owners for tuition amounts reimbursed pursuant to this Section. Upon such assignment, the Board of Regents may take appropriate action against the school or its owner or owners in order to reimburse the Student Protection Fund for any expenses or claims that are paid from the fund and to reimburse the state for the reasonable and necessary expenses in undertaking such action.

F. The Board of Regents shall adopt necessary rules and regulations based on recommendations from the commission providing for the cessation of payments into the Student Protection Fund by schools licensed under the provisions of this Chapter upon

the fund balance reaching a minimum of eight hundred thousand dollars and for the resumption of payments into the fund whenever the fund balance is less than seven hundred fifty thousand dollars.

G. (1) Notwithstanding the provisions of Subsection A of this Section, there is hereby established a special account within the Proprietary School Students Protection Fund to be known as the Proprietary School Student Records and Administration Account, hereinafter referred to as the "Administration Account". Any balance in the Student Protection Fund on July 1, 2000, that exceeds eight hundred thousand dollars, as provided in Subsection F of this Section, shall be deposited into the Administration Account. All interest earned on the fund after July 1, 2000, shall be deposited in the Administration Account. All deposits made to the Student Protection Fund after July 1, 2000, shall be made in accordance with the provisions of Subsection B of this Section.

(2) Amounts from the Administration Account shall be pledged and dedicated solely and exclusively for costs associated with the Board of Regents functions as they relate to the administration of proprietary schools and for the creation of a digital student records management system.

Acts 1989, No. 798, §1; Acts 1991, No. 943, §§1, 2, eff. July 24, 1991; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999; Acts 2000, 1st Ex. Sess., No. 63, §1, eff. April 17, 2000.

#### **§3141.17. Administration**

A. All funds collected from proprietary schools licensed under the provisions of this Chapter, except payments made to the Student Protection Fund, shall be used exclusively for implementing and otherwise administering the provisions of this Chapter. The Board of Regents shall make an annual accounting to the Advisory Commission on Proprietary Schools of all funds collected and all expenditures made under the provisions of this Chapter.

B. There shall be within the Board of Regents employee positions assigned to implement and otherwise administer the provisions of this Chapter. The duties and responsibilities of such employees shall be determined by the commissioner of higher education, subject to the approval of the Board of Regents, but shall include responsibility for all administrative, clerical, legal, and financial matters associated with the licensing, monitoring, and evaluation of proprietary schools governed by the provisions of this Chapter and with the operation of the Advisory Commission on Proprietary Schools.

Acts 1989, No. 798, §1; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.

#### **§3141.18. Investigation of complaints; hearings; administrative enforcement; judicial review**

A. Based on information gathered from its investigation of complaints as provided for in R.S. 17:3141.3(D)(2)(b), the Board of Regents shall determine whether a violation has occurred. The board shall send a notice of the violation to the school or to the



solicitor specifying the standard violated, the remedy proposed, and the procedure by which an administrative hearing may be requested.

B. For purposes of an investigation or hearing, the board may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records which the board deems relevant or material to the investigation or hearing.

C. In the event that a party fails or refuses to obey a subpoena or to comply with a request for information, the Board of Regents may make application to the Nineteenth Judicial District Court, which shall have jurisdiction to issue an order requiring the party involved to appear before the board, to produce evidence, or to give testimony touching on the matter under consideration. Any failure to obey such an order of the court may be punished by the court as a contempt thereof.

D. Following an opportunity for a hearing, the Board of Regents shall transmit its findings to the commission. The commission shall review the findings of the board and shall render a written decision. The commission shall consider the record of proceedings conducted before the board and may accept, reject, or modify the recommendations of the board and may provide for corrective action including but not limited to restitution orders and fines, which fines shall not exceed five hundred dollars per violation. The commission shall submit any such written decisions to the board.

E. Any party aggrieved by any decision or order of the commission or Board of Regents may seek judicial review in accordance with the provisions of the Administrative Procedure Act.

F. No cause of action shall exist against any student who in good faith makes a report, cooperates in the investigation by the commission, or participates in judicial proceedings, and each student shall have immunity from civil or criminal liability that might otherwise be incurred or imposed. This immunity from liability shall not extend to any person who makes a report known to be false or with reckless disregard for the truth of the report.

Acts 1991, No. 844, §1; Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.

### **§3141.19. Transition from the State Board of Elementary and Secondary Education to the Board of Regents**

Any obligations incurred by the State Board of Elementary and Secondary Education and the state Department of Education prior to July 1, 1999 in any respect regarding the Proprietary School Commission or any aspect of providing for the licensing and regulation of proprietary schools shall be preserved and discharged by the Board of Regents. The Board of Regents shall act as successor to the State Board of Elementary and Secondary Education and the state Department of Education in all respects insofar as such obligations exist. Further, all books, papers, records, money and other property owned, possessed, controlled, or used by the State Board of Elementary and Secondary Education and the state Department of Education in the exercise of their functions relating to proprietary schools are hereby transferred to the Board of Regents. All employees heretofore engaged in the exercise of the function of the State Board of

Elementary and Secondary Education or the state Department of Education relating to proprietary schools shall, insofar as practicable, continue as employees of the Board of Regents, subject to Board of Regents approval, and shall retain all rights, privileges, and benefits enjoyed by each under the State Board of Elementary and Secondary Education and the state Department of Education.

Acts 1998, 1st Ex. Sess., No. 151, §1, eff. July 1, 1999.